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PART IV

**Acts of Gujarat Legislature and Ordinances promulgated and Regulations
made by the Governor.**

FINANCE DEPARTMENT

Sachivalaya, Gandhinagar, Dated the 31st July, 2023.

GUJARAT ORDINANCE NO. 1 OF 2023.

AN ORDINANCE

further to amend the Gujarat Goods and Services Tax Act, 2017.

WHEREAS on the basis of the recommendations of the 48th and 49th meetings of the Goods and Services Tax Council, certain provisions of the Central Goods and Services Tax Act, 2017 have been amended by the Parliament *vide* Finance Act, 2023;

12 of 2017.
8 of 2023.

AND WHEREAS with a view to implementing the recommendations of the Goods and Services Tax Council as soon as possible and in order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017, it is expedient to amend the Gujarat Goods and Services Tax Act, 2017;

12 of 2017.

Guj. 25 of
2017.

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in Session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to amend the Gujarat Goods and Services Tax Act, 2017;

Guj. 25 of 2017.

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely: -

1. Short title and commencement.- (1) This Ordinance may be called the Gujarat Goods and Services Tax (Amendment) Ordinance, 2023.

(2) It shall come into force at once.

2. Guj. 25 of 2017 to be temporarily amended. - During the period of operation of this Ordinance, the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as "the principal Act), shall have effect subject to the amendments specified in sections 3 to 25.

Guj. 25 of 2017.

3. Amendment of section 10 of Guj. 25 of 2017.- In the principal Act, in section 10,—

(a) in sub-section (2), in clause (d), the words " goods or" shall be deleted;

(b) in sub-section (2A), in clause (c), the words " goods or" shall be deleted.

4. Amendment of section 16 of Guj. 25 of 2017.- In the principal Act, in section 16, in sub-section (2),—

(i) in the second proviso, for the words "added to his output tax liability, along with interest thereon", the words and figures "paid by him along with interest payable under section 50" shall be substituted;

(ii) in the third proviso, after the words "made by him", the words " to the supplier" shall be inserted.

5. Amendment of section 17 of Guj. 25 of 2017.- In the principal Act, in section 17,—

(a) in sub-section (3), in the *Explanation*, for the words and figure "except those specified in paragraph 5 of the said Schedule", the following words, figures and brackets shall be substituted, namely:—

"except,—

(i) the value of activities or transactions specified in paragraph 5 of the said Schedule; and

(ii) the value of such activities or transactions as may be prescribed in respect of clause (a) of paragraph 8 of the said Schedule.";

(b) in sub-section (5), after clause (f), the following clause shall be inserted, namely:—

"(fa) goods or services or both received by a taxable person, which are used or intended to be used for activities relating to his obligations under corporate social responsibility referred to in section 135 of the Companies Act, 2013;"

6. Amendment of section 23 of Guj. 25 of 2017.- In the principal Act, in section 23, for sub-section (2), the following sub-section shall be substituted and shall be deemed to have been substituted with effect from the 1st day of July, 2017, namely:—

"(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 22 or section 24, the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, specify the category of persons who may be exempted from obtaining registration under this Act."

7. Amendment of section 30 of Guj. 25 of 2017.- In the principal Act, in section 30, in sub-section (1),—

(a) for the words "the prescribed manner within thirty days from the date of service of the cancellation order:", the words "such manner, within such time and subject to such conditions and restrictions, as may be prescribed." shall be substituted;

(b) the proviso shall be deleted.

8. Amendment of section 37 of Guj. 25 of 2017.- In the principal Act, in section 37, after sub-section (4), the following sub-section shall be added, namely:—

"(5) A registered person shall not be allowed to furnish the details of outward supplies under sub-section (1) for a tax period after the expiry of a period of three years from the due date of furnishing the said details:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the details of outward supplies for a tax period under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said details."

9. Amendment of section 39 of Guj. 25 of 2017.- In the principal Act, in section 39, after sub-section (10), the following sub-section shall be added, namely:—

"(11) A registered person shall not be allowed to furnish a return for a tax period after the expiry of a period of three years from the due date of furnishing the said return:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish the return for a tax period, even after the expiry of the said period of three years from the due date of furnishing the said return."

10. Amendment of section 44 of Guj. 25 of 2017.- In the principal Act, section 44 shall be renumbered as sub-section (1) thereof, and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:—

"(2) A registered person shall not be allowed to furnish an annual return under sub-section (1) for a financial year after the expiry of a period of three years from the due date of furnishing the said annual return:

Provided that the Government may, on the recommendations of the Council, by notification, and subject to such conditions and restrictions as may be specified therein, allow a registered person or a class of registered persons to furnish an annual return for a financial year under sub-section (1), even after the expiry of the said period of three years from the due date of furnishing the said annual return."

11. Amendment of section 52 of Guj. 25 of 2017.- In the principal Act, in section 52, after sub-section (14), the following sub-section shall be added, namely:—

"(15) The operator shall not be allowed to furnish a statement under sub-section (4) after the expiry of a period of three years from the due date of furnishing the said statement:

Provided that the Government may, on the recommendations of the Council, by notification, subject to such conditions and restrictions as may be specified therein, allow an operator or a class of operators to furnish a statement under sub-section (4), even after the expiry of the said period of three years from the due date of furnishing the said statement."

12. Amendment of section 54 of Guj. 25 of 2017.- In the principal Act, in section 54, in sub-section (6), the words "excluding the amount of input tax credit provisionally accepted," shall be deleted.

13. Amendment of section 56 of Guj. 25 of 2017.- In the principal Act, in section 56, for the words "from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax", the words "for the period of delay beyond sixty days from the date of receipt of such application till the date of refund of such tax, to be computed in such manner and subject to such conditions and restrictions as may be prescribed" shall be substituted.

14. Amendment of section 62 of Guj. 25 of 2017.- In the principal Act, in section 62, in sub-section (2),—

(a) for the words "thirty days", the words "sixty days" shall be substituted;

(b) the following proviso shall be added, namely:—

"Provided that where the registered person fails to furnish a valid return within sixty days of the service of the assessment order under sub-section (1), he may furnish the same within a further period of sixty days on payment of an additional late fee of one hundred rupees for each day of delay beyond sixty days of the service of the said assessment order and in case he furnishes valid return within such extended period, the said assessment order shall be deemed to have been withdrawn, but the liability to pay interest under sub-section (1) of section 50 or to pay late fee under section 47 shall continue."

15. Substitution of section 109 of Guj. 25 of 2017.- In the principal Act, for section 109, the following section shall be substituted, namely:-

**Appellate
Tribunal.**

109. Subject to the provisions of this Chapter, the Goods and Services Tax Appellate Tribunal constituted under the Central Goods and Services Tax Act, 2017 shall be the Appellate Tribunal for hearing appeals against the orders passed by the Appellate Authority or the Revisional Authority under this Act.

12 of 2017.

16. Deletion of section 110 of Guj. 25 of 2017.- In the principal Act, section 110 shall be deleted.

17. Deletion of section 114 of Guj. 25 of 2017.- In the principal Act, section 114 shall be deleted.

18. Amendment of section 117 of Guj. 25 of 2017.- In the principal Act, in section 117,—

(a) in sub-section (1), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted;

(b) in sub-section (5), in clauses (a) and (b), for the words "State Bench or Area Benches", the words "State Benches" shall be substituted.

19. Amendment of section 118 of Guj. 25 of 2017.- In the principal Act, in sub-section (1), in clause (a), for the words “National Bench or Regional Benches”, the words “Principal Bench” shall be substituted.

20. Amendment of section 119 of Guj. 25 of 2017.- In the principal Act, in section 119,—

(a) for the words “National or Regional Benches”, the words “Principal Bench” shall be substituted;

(b) for the words, “State Bench or Area Benches”, the words “State Benches” shall be substituted.

21. Amendment of section 122 of Guj. 25 of 2017.- In the principal Act, in section 122, after sub-section (1A), the following sub-section shall be inserted, namely:—

"(1B) Any electronic commerce operator who—

(i) allows a supply of goods or services or both through it by an unregistered person other than a person exempted from registration by a notification issued under this Act to make such supply;

(ii) allows an inter-State supply of goods or services or both through it by a person who is not eligible to make such inter-State supply; or

(iii) fails to furnish the correct details in the statement to be furnished under sub-section (4) of section 52 of any outward supply of goods effected through it by a person exempted from obtaining registration under this Act,

shall be liable to pay a penalty of ten thousand rupees, or an amount equivalent to the amount of tax involved had such supply been made by a registered person other than a person paying tax under section 10, whichever is higher."

22. Amendment of section 132 of Guj. 25 of 2017.- In the principal Act, in section 132, in sub-section (1),—

(a) clauses (g), (j) and (k) shall be deleted;

(b) in clause (l), for the words, brackets and letters "clauses (a) to (k)", the words, brackets and letters "clauses (a) to (f) and clauses (h) and (i)" shall be substituted;

(c) in sub-clause (iii), for the words "any other offence", the words, brackets and letter "an offence specified in clause (b)," shall be substituted;

(d) in sub-clause (iv), the words, brackets and letters "or clause (g) or clause (j)" shall be deleted.

23. Amendment of section 138 of Guj. 25 of 2017.- In the principal Act, in section 138,—

(a) in sub-section (1), in the first proviso,—

(i) for clause (a), the following clause shall be substituted, namely:—

"(a) a person who has been allowed to compound once in respect of any of the offences specified in clauses (a) to (f), (h), (i) and (l) of sub-section (1) of section 132;"

(ii) clause (b) shall be deleted;

(iii) for clause (c), the following clause shall be substituted, namely:—

"(c) a person who has been accused of committing an offence under clause (b) of sub-section (1) of section 132;"

(iv) clause (e) shall be deleted;

(b) in sub-section (2), for the words "ten thousand rupees or fifty per cent. of the tax involved, whichever is higher, and the maximum amount not being less than thirty thousand rupees or one hundred and fifty per cent. of the tax, whichever is higher", the words "twenty-five per cent. of the tax involved and the maximum amount not being more than one hundred per cent. of the tax involved" shall be substituted.

24. Insertion of new section 158A to Guj. 25 of 2017.- In the principal Act, after section 158, the following section shall be inserted, namely:—

Consent based sharing of information furnished by taxable person.

"158A. (1) Notwithstanding anything contained in sections 133, 152 and 158, the following details furnished by a registered person may, subject to the provisions of sub-section (2), and on the recommendations of the Council, be shared by the common portal with such other systems as may be notified by the Government, in such manner and subject to such conditions as may be prescribed, namely:—

(a) particulars furnished in the application for registration under section 25 or in the return filed under section 39 or under section 44;

(b) the particulars uploaded on the common portal for preparation of invoice, the details of outward supplies furnished under section 37 and the particulars uploaded on the common portal for generation of documents under section 68;

(c) such other details as may be prescribed.

(2) For the purposes of sharing details under sub-section (1), the consent shall be obtained, of—

(a) the supplier, in respect of details furnished under clauses (a), (b) and (c) of sub-section (1); and

(b) the recipient, in respect of details furnished under clause (b) of sub-section (1), and under clause (c) of sub-section (1) only where such details include identity information of the recipient, in such form and manner as may be prescribed.

(3) Notwithstanding anything contained in any law for the time being in force, no action shall lie against the Government or the common portal with respect to any liability arising consequent to information shared under this section and there shall be no impact on the liability to pay tax on the relevant supply or as per the relevant return."

25. Retrospective exemption to certain activities and transactions in Schedule III to the Gujarat Goods and Services Tax Act.- (1) In the principal Act, in Schedule III, paragraphs 7 and 8 and the *Explanation 2* thereof (as inserted *vide* section 31 of Act 14 of 2018) shall be deemed to have been inserted therein with effect from the 1st day of July, 2017.

(2) No refund shall be made of all the tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

STATEMENT

The Gujarat Goods and Services Tax Act, 2017 was enacted with a view to making a provision for levy and collection of tax on intra-State supply of goods or services or both by the Government of Gujarat.

Various decisions have been taken by the Goods and Services Tax Council in its 48th and 49th meetings requiring amendments in the Goods and Services Tax Laws. Accordingly, the Central Goods and Services Tax Act, 2017 (12 of 2017) and the Integrated Goods and Services Tax Act, 2017 (13 of 2017) have been amended by the Parliament by the Finance Act, 2023 (8 of 2023). With a view to implementing the recommendations of the Goods and Services Tax Council as soon as possible and in order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 (Guj. 25 of 2017), it is considered necessary to amend the Gujarat Goods and Services Tax Act, 2017 (Guj. 25 of 2017).

As the Legislative Assembly of the State of Gujarat is not in session, the Gujarat Goods and Services Tax (Amendment) Ordinance, 2023 is promulgated to amend the Gujarat Goods and Services Tax Act, 2017 to achieve the aforesaid object.

Gandhinagar,
Dated the 28th July, 2023.

ACHARYA DEVVRAT,
Governor of Gujarat.

By order and in the name of the Governor of Gujarat,

J. P. GUPTA,
Additional Chief Secretary to Government.

